



217/782-5544

145439 *file*

September 28, 1982

Richard J. Kissel  
Martin, Craig, Chester & Sonnenschein  
115 South LaSalle Street  
Chicago, Illinois 60603

*P. 2 The Thompson*

Re: Village of Sauget NPDES Permit Appeal, PCB 79-87

Dear Dick:

This letter is in response to your letter of September 23, 1982 amplifying the settlement discussions of September 21, 1982. Enclosed is a draft permit which incorporates a number of the changes proposed in your most recent letter. This draft permit is the basic draft permit that was transmitted to the permittee on May 22, 1981.

I agree that the May 22, 1981 draft permit should serve as the basis for identifying where the parties have reached agreement. To the extent that a complete resolution of this matter cannot be reached, however, it is our position that objections not raised in the petition for review are outside the scope of the scheduled hearing.

I will address the seven points in your letter in the order you raised them.

1. Address

The draft permit reflects an address at 10 Mobil Street, Sauget, Illinois.

2. Mass limitations and R76-21 effluent limitations

Mass limits included in the draft permit were computed on the basis of a hydraulic flow of 13 mgd. The Agency has reviewed the concentration limits in the permit on a parameter-by-parameter basis. The limitations for zinc, iron, and copper have been changed to reflect R76-21.

The mass limitation for nickel has been recalculated and the pH range adjusted from "5.0 to 10.0" to "6.0 to 10.0".

Attachment G, Paragraph 3 of the May 22, 1981 draft permit has been eliminated.

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3. Regional Plant Completion

The last two elements of the Attachment C schedule have been changed from June 30, 1983 to December 31, 1985. The second paragraph on the second page of the Attachment C has been changed as suggested in your September 23, 1982 letter.

The requirement for completion of the sewer system evaluation is intended to reflect the grant schedule.

4. Pretreatment Program

Activities 1 through 4 of the Attachment G pretreatment shedule have been changed to reflect the fact that these items have been submitted. This should not be deemed as an approval of these items having been satisfactorily completed. We have recently received (September 13) comments from Region V on these submittals. Our review should be completed within a month. A response should follow shortly thereafter, depending on resolution of issues with Region V.

The draft permit adjusts the compliance dates for Activities 5 through 9 to June 30, 1983. We realize that this may impose some hardship on the permittee, however, no extension past June 30, 1983 is currently possible. See 40 CFR 403.8 (b).

The Agency has declined to include the language you proposed concerning recognition of Sauget plant as a pretreatment facility. The Agency agrees that the Sauget plant will be a pretreatment facility under the Part 403 regulations once flows are diverted to the regional plant; the Agency declines to include the proposed language because the concept is already recognized on a state and federal basis. Attached is a letter from Charles Sutfin, Director of Region V's Water Division to Jack Molloy of Monsanto dated August 9, 1982. Please note the next to the last complete paragraph on page 2 of the letter which provides as follows:

In conclusion, this office is very interested in the Regional Treatment Plant being constructed. We feel the new plant will have the capability to remove and treat some of the toxicants which are presently entering the Village of Sauget's treatment plant. Also, the Sauget physical/chemical treatment facility provides a unique pretreatment feature that coordinates industrial pretreatment with the regional wastewater facility. The operational success of the Regional Treatment Plant, we believe, will depend primarily on the effectiveness of the combined capabilities of these treatment facilities and the overall effective management of the regional pretreatment program.

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The Agency concurs with Mr. Sutfin's position. I believe that raising this issue once again is unlikely to be very productive.

5. Polychlorinated biphenyls (PCB's)

With minor word changes, the attached draft reflects the language you proposed.

6. Standard Conditions

A bypass condition has been included in essentially the form you proposed.

Your understanding of Standard Condition 23 as represented in the September 23, 1982 letter is correct.

7. Other Pollutants

The permit includes a revised draft of the additional pollutants language as Special Condition 4. We felt these changes were necessary and appropriate in light of the fact that Sauget is a POTW.

Sincerely,

Gary P. King  
Attorney Advisor  
Enforcement Programs

GPK:mgg5350c/10-12

cc: John VanVranken  
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September 23, 1982

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Re: Village of Sauger vs. Illinois Environmental Protection  
Agency, PCB 79-87, NPDES Permit Appeal

Dear Gary:

This letter will confirm our discussion concerning resolution of the above captioned NPDES permit appeal on September 21, 1982. In a conference call on that date, we discussed the various issues which were raised by the Village of Sauger and Monsanto, which, if resolved, would provide the basis for settling this appeal.

Initially, it was agreed that the proposed draft permit issued by the Agency on May 22, 1981 would provide the base of the negotiations. Prior to that proposed draft the Village, the Agency and Monsanto had numerous negotiations which led to the issuance of that proposed draft, so that the draft represented compromise by the parties up to that point. Monsanto and Sauger prepared and sent comments on the proposed draft to the Agency in separate letters dated June 25, 1981. It is those letters which identified the remaining issues between the Agency and the other parties and for purposes of this letter and will be the reference point for the remaining. Also, it was agreed that if we were unable to agree on the remaining issues, identified in this letter, the proposed draft would still be used by the parties in the scheduled hearing on October 7, 1982, as the latest Agency position in this matter.

C07751

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Now for a discussion of the issues raised in the June 25, 1981 letter and a summary of our discussion of those issues.

1. The Address

The address of the Sauget treatment plant will be changed to the following:

Sauget Sewage Treatment Plant  
10 Mobil Street  
Sauget, Illinois  
St. Clair County

2. Mass limitations and effluent limitations under R76-21

a). Mass limits

Sauget has continued to object to the imposition of mass limits in the permit, but in order to resolve this matter, Sauget would agree to those limits on the condition that they be computed on the basis of a hydraulic flow of 13 m.g.d.

b). R76-21

Also Sauget believes that the concentration limits should be based on the effluent limitations established by the Board in PCB R76-21. While the Agency originally accepted this view, this is no longer the case. As we were advised on the 21st, it is the Agency's position that in some instances PCB R76-21 represents a relaxation of effluent standards and averaging times and therefore, cannot be used where a permittee has been meeting the more stringent standards of the prior permit. Sauget disagreed with this position and specifically referred to the recent settlement agreement with the USEPA on the NPDES regulations which specifically allowed the use of less stringent limitations. (See Issues 50 and 51 of the Settlement Agreement).

In order to resolve this matter, Sauget agreed to examine the performance of the treatment plant with regard to the specific parameters affected by R76-21 and advise the Agency as to which, if any, limitations Sauget has not been able to meet on a consistent basis. After this information is presented to the Agency, discussion will be made on a parameter-by-parameter basis as to whether the effluent limitation will be changed within the context of R76-21. The basis of the change will be that the treatment plant has not been able to meet the effluent limitation under the prior permit.

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c). Nickel

The mass limitation for nickel will be recalculated. It is apparent that there is an error in the calculation because the 30 day average and the daily maximum mass limits are the same, even though the concentration for each is different.

d). pH

The pH limitation will be in attachment A, Paragraph 1, from "5.0 to 10.0" to "6.0 to 10.0". This is consistent with the Board's Order in R76-21.

e). Attachment G, Paragraph 3

In view of this agreement between the Agency and Sauget, this paragraph which embodies the Agency's prior position in R76-21 can be eliminated.

3. Regional Plant Completion Date and Reporting

a). The Compliance date

Sauget has advised the Agency that because of the difficulty in obtaining financing for the East St. Louis portion of the Regional plant, the completion date for the Regional plant has changed. Based on present knowledge, it is anticipated that if all goes well the plant will be completed on or before December 31, 1985. Based on this, the Agency agreed that the dates in Attachment C will be changed to December 31, 1985. In addition, Paragraph 2, the Sewer System evaluation completion date of February 1, 1984 will be changed and will be geared to the date in the grant's program.

b). Reporting date

The reporting times in Attachment C will be changed. Specifically, we suggest the second paragraph on Page six of the proposed draft be changed to reflect the agreement as follows

"Additionally, the permittee shall submit progress reports every nine (9) months beginning on May 31, 1983. Said reports shall be submitted until completion of construction."

4. Pretreatment program

a). Dates

C07753

We advised the Agency that Sauget has completed all

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applications for pre-treatment programs for both the Sauget treatment plant and the regional plant as required by Attachment G, Paragraph 2, Groups I and II; yet, it has received no response. With that in mind, Sauget advised the Agency that it could not agree to the completion of the requirements of Groups III and IV by June 30, 1983 as required by the draft proposed permit. The Agency agreed to change the date, but indicated that federal pretreatment regulations prohibit an extension beyond June 30, 1983. Both Sauget and the Agency were to look into what the federal regulations provide, and if the Agency has authority to do so the date would be changed in Attachment G from "June 30, 1983" to "September 30, 1985."

b). Sauget as a Pretreatment Facility

From the very beginning of consideration of the regional plant, it was apparent that that effort would not work without the financial support of the industries within the Village. This financial support can only be reasonable to those industries within the Village if the present Sauget treatment facility is deemed to be a pretreatment facility for those particular industries. Otherwise, we would be in the ridiculous situation of the industries having to install pre-treatment prior to the discharge to the Sauget plant. It is therefore, extremely important that the Agency recognize this and Sauget has so advised the Agency since the regional plant was first discussed. In order to clarify this, once and for all, Sauget requested that this concept be reflected in the permit and the Agency asked that the Village submit language to this effect. On that basis, Sauget suggests that the Agency include the following as a part of Attachment G:

"The Agency hereby recognizes that the treatment facility of the Village of Sauget is a pre-treatment facility, as that term is used in the Clean Water Act and the regulations promulgated thereunder, for those industries which discharge to said treatment facility."

5. Polychlorinated biphenyls (PCBs)

The draft proposed permit with Attachment A provides that Sauget shall monitor for PCBs one time per week using a composite sample. As we have previously indicated, both Sauget and Monsanto objected to any monitoring for PCBs, but

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in order to resolve this permit appeal, Sauget would agree to a monitoring requirement of 1 weekly composite to be done for six months. The monitoring requirement would end at the end of that period unless the Agency could demonstrate that further monitoring was required because of the discharge of an unreasonable amount of PCBs. To accomplish this, Attachment A of the permit, with regard to PCBs would be changed and read as follows:

<u>"Parameter</u>	<u>Concentration Units</u>	<u>Load Limits</u>	<u>Sample Frequency</u>	<u>Sample Type</u>
Polychlorinated biphenyls xxx	--	--	1 x Month	Weekly xx Composite

xx Weekly composite, as used herein, shall consist of a combination of 24 hour composite samples collected for 5 consecutive days during a calendar week.

xxx The requirement to monitor for PCBs under this permit shall terminate six months after the effective date herein unless the Agency wishes a determination that further monitoring should continue because there is an unreasonable amount of PCBs being discharged. Any determination by the Agency hereunder shall be subject to review by the Pollution Control Board under the rules regarding permit appeals."

#### 6. The Standard Condition

Sauget and Monsanto objected to certain provisions of the standard conditions, and requested that certain provisions be included. As a result of our discussion the other day, we agreed to the following:

##### a). Bypass provision

The Agency agreed to include a "bypass" provision in the permit as follows:

1). Notice. (i) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

ii). Unanticipated bypass. The permittee shall submit notice of within 24 hours.



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2). Prohibition of bypass. (1) Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:

A). Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

B). There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

C). The permittee submitted notices as required under paragraph (g)(1) of this section.

b). Paragraph 23

Monsanto and Sauget have asked the Agency for the meaning of the phrase "...and is incorporated as part hereof by reference." In discussion, we understand that any permit issued for the disposal of the material mentioned in Paragraph 23 would, when issued, be incorporated into this permit, thereby obviating the need for additional NPDES permits. We would appreciate a letter from you confirming our understanding.

7. Other Pollutants

We believe that an NPDES permit is a general authorization to discharge contaminants except as specifically limited therein. We realize there is disagreement with that position with the Agency. In order to resolve that difference we propose the language enclosed as Attachment A which is similar to that in the Caterpillar Maple permit.

I believe that this letter confirms our previous discussions. I hope we can hear from you early next week (the week of September 27th) to discuss the specific language proposed in this letter. Before closing, though, I would like to make two points. First, with regard to the enclosed, proposed language, I am sending it to Jay Baker and Brent Gilhousen and Steve Smith at the same time as sending it to you; therefore, they have not had a chance to review the language. It may be that they will have comments and suggestions different than mine. I'm sure I will have these comments by early next week.

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Second, we briefly discussed how this matter would be handled procedurally. We could use a number of approaches, including a Stipulation filed with the Board, or merely a recitation of the agreement at the hearing on October 7. The mechanics can be worked as long as we have agreement on this language.

I look forward to hearing from you or Jay early next week.  
Thanks for your help.

Very truly yours,



Richard J. Kissel

RJK/mls

cc: Harold G. Baker, Jr., Esq.  
Brent J. Gilhousen, Esq.  
Steven D. Smith, Esq.  
Mr. John Van Vranken

C07757

## ATTACHMENT A

Permittee may discharge pollutants not specifically identified or limited in the permit at a level that is not prohibited by state or federal law, provided that the permittee monitors its discharge as set forth herein.

- a. Permittee shall monitor the following parameters as designated below:

(To be established by review of Exhibit A and agreement between Sauger and the Agency. It may be that no consulting is required).

If the permittee, after monitoring the above parameters for at least one year can demonstrate to the satisfaction of the Agency that there is no significant discharge of the designated parameters, upon written request by the permittee, the Agency shall review the monitoring requirement and may, at its discretion, revise or waive such monitoring requirements by letter without public notice or opportunity for hearing.

- b. Six months prior to the expiration of this permit, permittee shall report to the Agency whether any additional toxic or hazardous substances appearing on the list previously specified by the Agency and attached hereto as Exhibit A, not previously identified, which has the potential to be contained in the discharge. Evaluation of the potential for discharge of the specified substances shall be performed as follows:

1. To determine the presence of any additional substances that appear on Exhibit A, the permittee shall request of the industrial dischargers a report as to what if any, substances in Exhibit A might be contained in their wastewater.
2. Confer with the Agency to determine whether any such substance which has the potential to be contained in the discharge should be evaluated or monitored.

Performance of the above identification shall constitute compliance with the terms of this permit condition. By performing this identification, the permittee does not satisfy its obligation to perform monitoring required as part of an NPDES permit application or any other monitoring required by state or federal law. Permittee shall not be precluded from using data collected in satisfaction of the above identification procedure to meet requirements of the NPDES permit program or other state or federal law, if applicable.